APPENDIX A

Transcript of the Legislative Session of the Council of the District of Columbia on April 29, 1986 (excerpts)

COUNCIL OF THE DISTRICT OF COLUMBIA
COUNCIL PERIOD VI
SECOND SESSION

33RD LEGISLATIVE MEETING
ROOM 500 DISTRICT BUILDING
TUESDAY, APRIL 29, 1986

Whereupon, the City Council convened at 10:14 a.m., pursuant to Notice.

PRESIDING

DAVID A. CLARKE, CHAIRMAN

Councilmembers-at-Large:

BETTY ANN KANE	CAROL SCHWARTZ
HILDA H. MASON	JOHN RAY

Ward Councilmembers:

FRANK SMITH	Ward 1
JOHN A. WILSON	Ward 2
POLLY SHACKLETON	Ward 3
CHARLENE DREW JARVIS	Ward 4
WILLIAM SPAULDING	Ward 5
NADINE P. WINTER	Ward 6
H.R. CRAWFORD	Ward 7
WILHELMINA ROLARK	Ward 8

* * *

[14] CHAIRMAN CLARKE: All right. The matter is referred. We go to further introductions. Let's have some order. Mr. Ray, on behalf of the Committee on consumer and Regulatory Affairs, will you present to us the [15] wholesale Liquor Industry Storage Act of 1986.

MR. RAY: I so move, Mr. Chairman.

CHAIRMAN CLARKE: Is there discussion? Hearing none, all in favor---

MS. WINTER: Chairman?

CHAIRMAN CLARKE: Mrs. Winter?

MS. WINTER: I understand -- Is there an amendment to that?

MS. WINTER I would like to move an amendment then. I don't have it written, Mr. Chairman, that all persons who -- We have granted permission to store outside of the District of columbia as of this date be grandfathered in. There's only one company I understand.

CHAIRMAN CLARKE: All right. Let me see if we got this. Let's let the Legislative Counsel get that in there.

MS. WINTER: International Distributors.

CHAIRMAN CLARKE: General Counsel or Legislative Counsel, can we have a formal reading of the amendment.

MR. MIZE: Mr. Chairman and Members, one way to achieve that goal, that goal may be to on page 1 of the engrossed original, the bottom line, place a period after [16] the date January 1, 1986, and delete the remainder of the sentence so that section 3 will read the requirements of this act shall not apply to licensed wholesalers permitted by the Alcoholic Beverage Control Board to store beverages outside the District of Columbia as of January 1, 1986.

CHAIRMAN CLARKE: All right. The motion is before us. Is there discussion?

MR. RAY: Yes, Mr. Chairman.

CHAIRMAN CLARKE: Mr. Ray.

MR. RAY: Mr. Chairman, I want to speak against this amendment. Mr. Chairman, if we are going to do this, in fact there is no use passing the law at all. The fact of the matter is that all of the companies that are in the city now cannot move out and will not move out.

To grandfather this one particular company out would be to give it a total advantage over all of these other companies. No other jurisdiction, as I pointed out before Mr. Chairman, allows companies to so operate.

More importantly, Mr. Chairman, it was not the Council who took this action. This was an action that was taken by the ABC Board based upon some information that this company gave them that if they were not allowed to stay outside of the city they would fail financially.

That is not true. It's not supported by the evidence, and it's supported by the operation of this [17] company.

Mr. Chairman, if we are going to grandfather this one company in, then we are doing it at a disadvantage to the other companies and its a circumvention of law. There is no rational reason whatsoever to grandfather this company in.

If we're going to do that, Mr. Chairman, I think it goes against the introduction of the bill which was not introduced by me. It was introduced by you, Mr. Chairman; and we should just scrap the whole law.

So, I want to speak against this amendment and ask my colleagues to vote against it.

Thank you, Mr. Chairman.

CHAIRMAN CLARKE: Thank you.

Further discussion? All those in favor of the amendment let it be known by saying aye.

(A chorus of ayes)

MS. WINTER: Roll call, Mr. Chairman.

Opposed?
(a chorus of nos)
MS. WINTER: Ms. Chairman.
CHAIRMAN CLARKE: All right. Roll will be called, Mr. Assistant Secretary.
MR. BOFFMAN: Chairman Clarke?
CHAIRMAN CLARKE: No.
[18] MR. BOFFMAN: Councilmember Crawford?
MR. CRAWFORD: Yes.
MR. BOFFMAN: Councilmember Jarvis?
MS. JARVIS: Yes.
MR. BOFFMAN: Councilmember Kane?
MS. KANE: Yes.
MR. BOFFMAN: Councilmember Mason?
MS. MASON: Present.
MR. BOFFMAN: Councilmember Ray?
MR. RAY: No.
MR. BOFFMAN: Councilmember Rolark?
MS. ROLARK: Yes.
MR. BOFFMAN: Councilmember Schwartz?
MS. SCHWARTZ: Yes.
MR. BOFFMAN: Councilmember Shackleton
MS. SHACKLETON: No.
MR. BOFFMAN: Councilmember Smith
MR. SMITH: Yes.
MR. BOFFMAN: Councilmember Spaulding?
MR. SPAULDING: Yes.
MR. BOFFMAN: Councilmember Wilson?
MR. WILSON: Present.
MR. BOFFMAN: Councilmember Winter?
MS. WINTER: Yes.
MR. BOFFMAN: Mr. Chairman, there're [*sic*] eight yes, [19] three nos, two present.

CHAIRMAN CLARKE: The amendment passes. The bill is before us. Is there discussion, further discussion?

All those in favor let it be known by saying aye.

(A chorus of ayes)

Opposed?

The ayes have it.

VOICE: Wait a minute.

CHAIRMAN CLARKE: I'm sorry. I can't -- The motion passes. The amendment was substantial, and it will be placed for a third reading at the next meeting.

* * *

APPENDIX B

Letter from John Ray, Chairman of the Committee on Consumer and Regulatory Affairs, to the Council of the District of Columbia, on the "Wholesale Liquor Industry Storage Act of 1986" April 30, 1986

COUNCIL OF THE DISTRICT OF COLUMBIA
MEMORANDUM
1350 Pennsylvania Avenue, N.W. Washington, DC 20004

To: All Councilmembers

From: Councilmember John Ray

Date: April 30, 1986

Subject: Bill 6-329, "Wholesale Liquor Industry Storage Act of 1986

I was shocked that the Council so readily approved Councilmember Winter's surprise amendment to Bill 6-329, to permanently "grandfather" not just one, but two, wholesale liquor dealers who warehouse in Maryland. At third reading, I will move an amendment to delete the language of Mrs. Winter's amendment; in the interim, I trust that those who voted for the permanent grandfather provision will consider the ramifications more closely.

First, the effect of Mrs. Winter's amendment is to leave two wholesale liquor dealers -- Quality Brands Inc. and Majestic Distilling Co. -- beyond the effective reach of District regulation and enforcement. The Alcoholic Beverage Control Act and accompanying regulations encompass a great deal more than mere licensing. The Alcoholic Beverage Control Board, and the ABC Division of the Business Regulation Administration, are responsible for assuring that licensed

wholesalers comply with all of the requirements of the law. To meet that responsibility, the Board and the division must have authority and access to inspect the premises, the alcoholic beverage stock, and the books and records of licensees. That authority and access is obviously limited for warehouses in Maryland and Virginia.

The law requires wholesalers to make monthly reports showing the quantity and kinds of beverages purchased (D.C. Code, 25-123(b)); remit excise taxes to the District on a monthly basis (D.C. Code 25-124 and 25-138); assure that beverage labels comply with the law (D.C. Code, 25-134); and operate their warehouses in such a manner that they are not public nuisances (D.C. Code, 25-139).

In addition, D.C. Municipal Regulations require wholesalers to obtain certificates of occupancy and other necessary permits, provide evidence of valid leases where applicable, comply with notice requirements and restrictions on signs and advertising, comply with restrictions on hours of sale and [2] delivery, and comply with numerous other requirements concerning methods of payment and bookkeeping.

The law specifically authorizes the Superior Court of the District of Columbia or a United States Magistrate for the District of Columbia to issue search warrants when there is probable cause to believe alcoholic beverages are being "kept for sale" in violation of the law. The act states that the search warrants are issued "to the Chief of Police of the District of Columbia or any member of the Metropolitan Police Department. (D.C. Code, 25-129) The public nuisance provisions of D.C. Code 25-139 authorize enforcement action by the Corporation Counsel of the District of Columbia in the Superior Court of the District of Columbia.

To allow two wholesalers to continue to warehouse outside the District permanently would put them beyond the reach of the District's courts and law enforcement authorities and would, in effect, all but give them carte blanche to violate our laws and regulations with impunity. Some may argue that the Board's authority to deny license renewal amounts to adequate enforcement power; but without timely authority or access to the Maryland storage facilities, the Board would have no evidence on which to base a determination as to whether violations occurred. Surely the Council does not intend to accord the special privilege of regulatory immunity to two licensees.

Second, the ABC Board decisions permitting Quality and Majestic to warehouse outside the District contravened the intent of the law and usurped powers reserved to the Council. D.C. Code, 25-107(b) authorizes the Council -- and only the Council -- to make all ABC rules and regulation. The Council is specifically authorized "to forbid the issuance of licenses for . . . storage of alcoholic beverages in such localities in, and such sections and portions of, the District of Columbia as the Council may deem proper in the public interest . . . "From this language, and other references to the District of Columbia throughout the act, it is clear that Congress, in writing the law, had no intention of permitting District licensees to Board made a policy decision expressly reserved for the Council. If we are genuinely committed to protecting our legislative prerogatives, we cannot come along now and condone the ABC Board's usurpation of Council authority.

Third, a permanent grandfather provision for Quality and Majestic amounts to the worst sort of preferential treatment granted on the basis of special interest lobbying. Preferential [3] treatment for Quality and Majestic would be grossly unfair to District wholesalers and their unionized employees. Quali-

ty Brands, which trades in the District under the name of International Distributors, is a Maryland corporation which took over the once-independent International in a merger. Quality then moved the International warehousing operations to maryland, citing economic benefits as the reason.

It must be recognized that a major reason for the move was to get away from the unionized work force in the District. Under Teamsters Union contracts, District wholesalers must provide paid sick leave, holiday pay, time-and-a-half pay after eight hours of work, and night differential pay. Hourly wages are $3 to $4 higher than wages for non-union employees in employee per truck, while non-union Maryland wholesalers may use only one.

Another major economic factor affecting employee benefits was Maryland's lower worker's compensation requirements for employers. For this Council, with its strong record of support for union representation of the workforce, to grant special favors to one particular employer who fled the union and fired unionized employees would be an outrage.

The lower costs of labor and overhead in Maryland give Quality and Majestic an unfair advantage over those wholesalers who have demonstrated their commitment to the District by staying here when they, too, could have left. Because Quality enjoys lower operating costs, the firm can undercut District wholesalers in competing for contracts from suppliers.

District wholesalers have lost the distribution rights for more than ten major liquor brands -- including Inverhouse and Cutty Sark scotch, Kentucky Gentleman bourbon, Montezuma tequila, and Fleischman's gin and vodka -- to Quality since its move to Maryland. To all Quality to continue to take brands from District wholesalers threatens the viability of the Dis-

trict's wholesalers threatens the viability of the District wholesale liquor industry.

For all of these reason, I hope you will reconsider this amendment carefully and join me in voting to deleter [*sic*] it on third reading.

APPENDIX C

Transcript of the Legislative Session of the Council of the District of Columbia on May 13, 1986 (excerpts)

COUNCIL OF THE DISTRICT OF COLUMBIA
COUNCIL PERIOD VI
SECOND SESSION

33RD LEGISLATIVE MEETING
ROOM 500 DISTRICT BUILDING
TUESDAY, APRIL 29, 1986

Whereupon, the City Council convened at 10:13 A.M., pursuant to Notice.

PRESIDING

DAVID A. CLARKE, CHAIRMAN

Councilmembers-at-Large:

BETTY ANN KANE	CAROL SCHWARTZ
HILDA H. MASON	JOHN RAY

Ward Councilmembers:

FRANK SMITH	Ward 1
JOHN A. WILSON	Ward 2
POLLY SHACKLETON	Ward 3
CHARLENE DREW JARVIS	Ward 4
WILLIAM SPAULDING	Ward 5
NADINE P. WINTER	Ward 6
H.R. CRAWFORD	Ward 7
WILHELMINA ROLARK	Ward 8

* * *

[16] All of these proposed resolutions will be referred to the Committee on Housing and Economic Development.

Further introduction?

All right. I'm sorry for having gone out of order.

MR. CRAWFORD: Mr. Chairman, point of personal privilege.

Mr. Chairman, I would like to recognize the presence of students and faculty from the River Terrace Elementary School who are with us this morning in the rear.

CHAIRMAN CLARKE: Thank you. Welcome young ladies and gentlemen to the City Council.

I'm hearing sort of a low roar in the background. Please, audience, try to allow us to debate the bills.

We move now to final reading. Councilmember Ray, would you present the "Wholesale Liquor Industry Storage Act of 1986".

MR. RAY: Mr. Chairman and Members of the Council, has the amendment been circulated? I circulated it earlier.

Mr. Chairman and Members of the Council, this amendment would go to Section 3, page 1, line 50. After "1986" strike the period and add the following language: [17] "for a period of 2 years following the effective date of this act."

Mr. Chairman, the effect of this amendment would be to reinstate the 2 year grace period as approved by the Council on first reading. This would provide wholesalers which warehouse outside the District a 2 year period to come in compliance with the act by arranging to store their stock in the District.

The amendment thus eliminates the open-ended grandfather provision which would allow wholesalers who are currently warehousing outside the District to remain out of the District for an indefinite period of time.

Mr. Chairman and Members of the Council, I circulated to all of the Members of a memorandum shortly after we voted on this last oem explaining why we should not support the amendment which eliminated the language that I'm reinstating.

And I will not debate that again, Mr. Chairman. I will simply move the amendment as proposed.

CHAIRMAN CLARKE: Thank you very much.

I'd like to take my opportunity at this time, it seems I didn't last time, to commend Mr. Ray for this amendment and to say I certainly agree with it. If we're going to exercise the kinds of controls and inspections that we need to to [*sic*] protect the integrity of the liquor [18] commerce in the District of Columbia, we certainly need to have all of the wholesalers within the bounds of the District of Columbia.

Ms. Shackleton.

MS. SHACKLETON: Mr. Chairman, I would to make a comment because I voted in the opposite way the last time and, therefore, I would like to indicate that I'll be voting for this amendment today -- which means I'll be changing my vote.

The other amendment came up in a very fast manner last time. I have, however, received information on both sides. And I would just like to get a point of information across -- ask for some information through you to Mr. Ray.

CHAIRMAN CLARKE: Yes.

MS. ROLARK: I have received information There was a lot of discussion last time that what we did [19] would hurt union workers. I have received some information late. And I just has a chance to examine it this morning in a very perfunctory manner. Therefore, I'm asking you, -- that says that it's not as was represented that union workers are not effected in Maryland. I would just like to ask you the truth or falsity of that.

I think you probably haven't seen that letter.

It's from a local 570. Are these all workers in Maryland?

I just want to point out the difference. Because, of course, I have a letter from Josh Williams. And as I said, I am going to vote with the amendment. But just for informational purposes and to put it on the record.

CHAIRMAN CLARKE: Mr. Ray.

MR. RAY: Mrs. Rolark, I do not have the letter that you have. I have the one from Josh, but I do not have that one.

Mrs. Rolark, no ma'am, I did not receive this letter. I can only assume, Mrs. Rolark, this is from Baltimore, Maryland. And I assume that's where it's from.

The one thing that we do know, Mrs. Rolark, is that those union workers that were employed with this wholesaler when they were here in the city were terminated. We know that.

MS. ROLARK: I just wanted to make that clear for the record.

Thank you very much.

[20] CHAIRMAN CLARKE: Further discussion? Ms. Jarvis.

MS. JARVIS: Mr. Chairman, thank you very much.

I'm going to be supporting Mr. Ray's amendment this morning. And I want, just for the record, to indicate the last time that we had an opportunity to vote on this that my posture on this was clearly misrepresented to many Members of the Council.

And I want to be clear that my vote this morning both is in support of the labor representatives support of the amendment and the local District-based liquor dealers' association. And to put that clearly on the record this morning.

CHAIRMAN CLARKE: Further discussion? Mrs. Mason.

MS. MASON: Mr. Chairman, as you recall, the last time I abstained because I wasn't clear. And I do support labor.

I support businesses in the District of Columbia. And I do appreciate the amendment, Mr. Ray has put forth.

Thank you.

CHAIRMAN CLARKE: Mrs. Winter.

MS. WINTER: Mr. Chairman, without objection, at what point could I enter a statement for the record. I don't want to prolong the session.

[21] CHAIRMAN CLARKE: You may without objection leave room in the record at this point for the inclusion of a statement to be produced within 48 hours.

MS. WINTER: I'd like to do that. And I'd like to say to my colleagues, there was no misrepresentation. I have spent a week gathering documentation. And where we keep talking about the District of Columbia, all 13 I have here, even though their warehouse may be located in the District of Columbia, they incorporated some place else. They pay $50 a year filing fee. All of the officers live in Maryland.

I circulated a letter, asked how many minorities worked. I have complete documentation that I'm going to submit for the record. And I'm sure that some of my colleagues that voted on the other side last time or abstained can appreciate the facts that I have gathered for the record, regardless of the vote here today.

Thank you.

CHAIRMAN CLARKE: Further discussion? Mrs. Schwartz.

MS. SCHWARTZ: I, too, voted for the amendment last time. I do want to say that, having thought about it and recognizing that we will have the 2 year grace period to move into the District is a big consideration for me. I felt that it is not right to change the rules on people [22] that they've been operating under and they bought a business under.

But I think a 2 grace period for them to come into the District with all of their operation is certainly ample time to

do so. And we certainly want to see businesses here and not businesses out-side being allowed to compete unfairly with out own businesses.

Thank you.

CHAIRMAN CLARKE: Thank you. Further discussion?

MS. SHACKLETON: May I just ask a question?

Mr. Ray, this amendment is exactly the same as your earlier amendment; is that true?

MR. RAY: Yes Ma'am.

MS. SHACKLETON: Thank you.

CHAIRMAN CLARKE: Further discussion.

MR. RAY: Mr. Chairman, I just wanted to say, I think what is important here is that these companies are located in the city, not so much where their officers live.

I did just want to put on the record that clearly all of the officers of these companies do not live out of the city.

Mr. Crohn (phonetic spelling) who has been one of our most finest citizens, unless he has moved recently, lives in the city. I know Mr. Feiman (phonetic spelling) lives in the city. Mike Minnie (phonetic spelling) from the Schlitz [23] Company lives in the city. And I'm sure that there is probably some others.

But I don't think that is important here. But I do think that it's important that at least the record be clear. To say that they all live outside of the city is clearly not fair and not accurate.

MS. WINTER: Mr. Chairman, on the second round since I made the statement.

CHAIRMAN CLARK: Mrs. Kane had her hand up.

MS. KANE: I just wanted to say for the record, I will be supporting Mr. Ray's amendment. It has been my understanding at the time of the previous vote that the exemption or the exception for being out of the city had been properly granted.

I have received information since that indicates it's really some question about how properly and how legally that exemption was granted in the first place.

I, like Mrs. Schwartz, am not in habit of changing the rules on the people in the middle of the game. It seems that there was some question about whether or not the rules were being followed in the first place.

CHAIRMAN CLARKE: Discussion? Mr. Spaulding.

MR. SPAULDING: Mr. Chairman, without making a statement so that the record is clear, I will vote to support that.

[24] CHAIRMAN CLARKE: Thank you. Mr. Smith.

MR. SMITH: Mr. Chairman, it seems like the votes are going to go in favor of this and I'm going to vote for it, too.

Thank you.

CHAIRMAN CLARKE: Mrs. Winter on second round.

MS. WINTER: Mr. Chairman, I made the statement a moment ago and if I said "all" I should have said "90 percent".

And I've looks at other states. In fact, I use Virginia. If you have license in Virginia you, the officers, must live in the state. And here in the District of Columbia, you can be incorporated any place in the United States, Michigan, Florida, and et cetera.

I have some concerns. And I just want to place on the record that where it may not alter the bill today, I do intend to, within the next 10 or 15 days introduce a bill which I think will clear up some of he real problem I have. I want to make the absolutely clear.

I want to say again, I'm going to enter all of this for the record because I think it is important. We're losing money, I believe, by allowing outside of the District of columbia corporations to continue to operate in the District of Columbia, especially where it concerns liquor licenses.

[25] Thank you, Mr. Chairman.

CHAIRMAN CLARKE: Thank you, Mrs. Winter. You have 48 hours in which to make that entry.

Hearing no further discussion, all in favor the amendment, let it be known by saying aye.

(A chorus of ayes.)

CHAIRMAN CLARKE: Opposed?

All in favor of the bill as amended, let it be known by saying aye.

(A chorus of ayes.)

CHAIRMAN CLARKE: Opposed?

This amendment restores the bill to the fashion in which it was on the first reading and, therefore, there have been two reading not less than 2 weeks apart in substantially similar fashion. And the bill will be transmittal to the mayor upon the inclusion in the record of the materials Mrs. Winter wishes to include.

* * *

APPENDIX D

Declaration of Frederick Farshey
May 17, 1995 (with attachments)

UNITED STATED DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Milton S. Kronheim & Co., Inc.,
Plaintiff,
v. Civil No. 95-226 (LFO)
District of Columbia, *et al.*,
Defendants.

DECLARATION OF FREDERICK FARSHEY

Frederick Farshey, pursuant to 28 U.S.C. § 1746, deposes and states as follows:

1. I am the President of Stanley Martin Commercial, Inc., 7220 Wisconsin Ave., Bethesda, Maryland 20814. Stanley Martin is primarily a commercial real estate development and management firm with a particular emphasis on industrial warehouses in the Washington, D.C., metropolitan area. We basically manage the properties of closely-held partnerships.

2. Among other buildings, we manage the former Sears Distribution Building on V St., NE (consisting of approximately 280,000 square feet of building and land) and the United Industrial District warehouses on V St., NE, (consisting of nine buildings and approximately 800,000 square feet).

3. In this capacity, I am very familiar with industrial real estate, including real estate for use as warehouses/ distribution in the District of Columbia. I follow market trends and am

familiar, I believe, with almost all such [2] commercial property in the District and with the market for such property.

3. I am a partner in the partnership that owns the warehouse located at 2800 V Street, N.E., that was formerly used by Sears, Roebuck & Co. This site is commonly known as the Sears Building, Sears Warehouse, or Sears Distribution Center. Sears vacated the building about two years ago. That property is adjacent (right across the railroad track) from the buildings used as a warehouse/distribution center by Milton S. Kronheim & Co., Inc.

4. Since that time, the Sears Building has been available for lease to any appropriate tenant. Since the first of this year, in excess of 225,000 square feet of space has been available for lease. A breakdown of the space available, including a breakdown between the actual building and surrounding land, is contained in the descriptive sales literature for the property attached hereto. That literature shows a total leasable space of over 280,000 square feet.

5. The Sears Building is partially leased at the present time and was partially leased in February 1995 to the General Services Administration, which took approximately 40,000 square feet interior space on a ten-year lease basis.

6. The partnership that owns the building (of which I am a partner) is ready, willing, and able to make modifications to the building for a suitable long-term tenant.

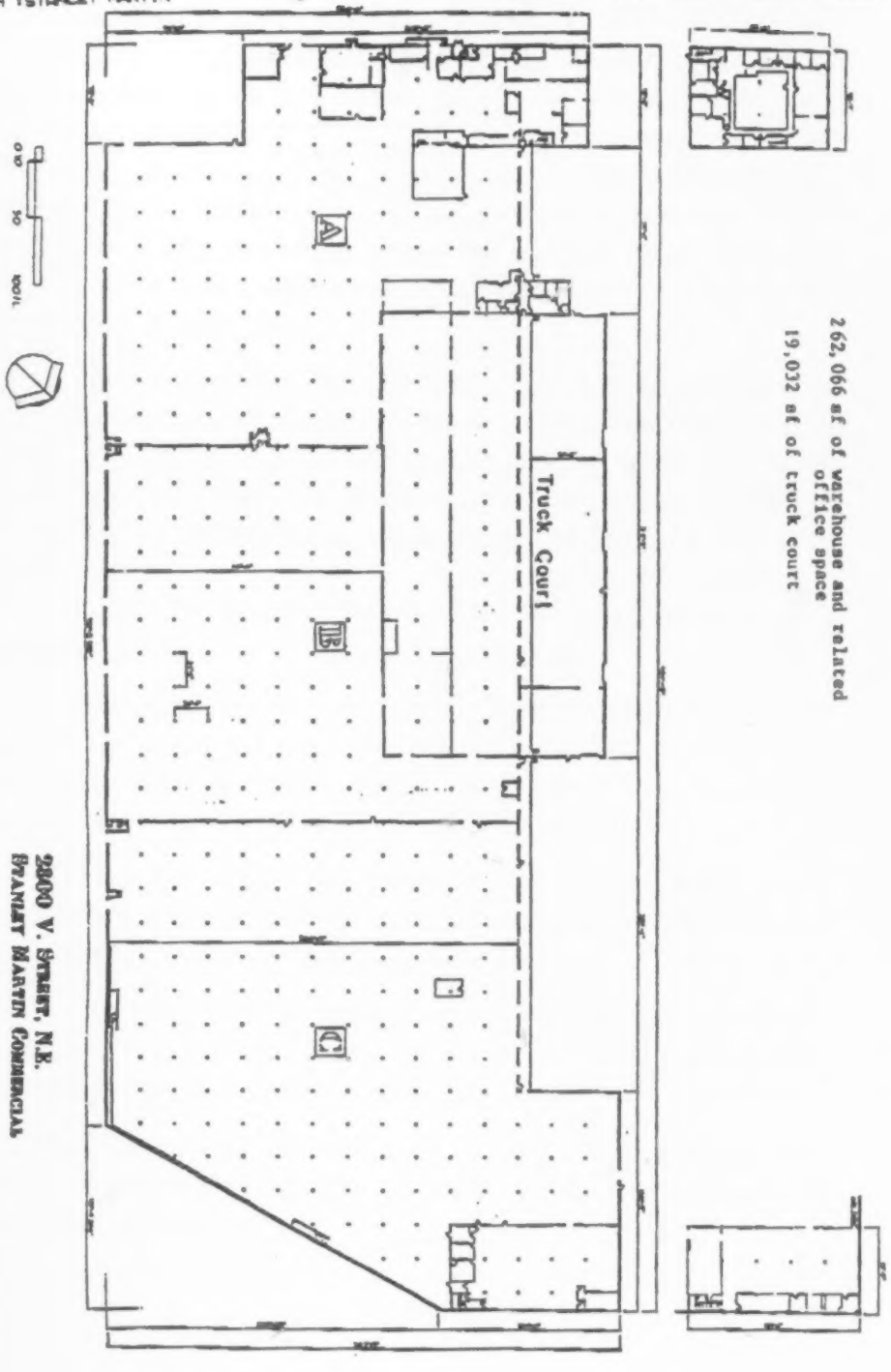
7. It is my understanding that both Kronheim personnel and its real estate consultants are acquainted with the building and [3] have known of its availability for lease for some time.

This declaration, consisting of a total of three pages and seven numbered paragraphs, is made by me on the basis of personal knowledge.

I DECLARE, PURSUANT TO 28 U.S.C. 1746 AND THE PENALTIES OF PERJURY, THAT THE FOREGOING DECLARATION IS TRUE AND CORRECT.

/s/
Fred Farshey
Dated: 5/17/95

FROM :STANLEY MARTIN TO : 7021 1996.06-17 12:44 #618 P.03



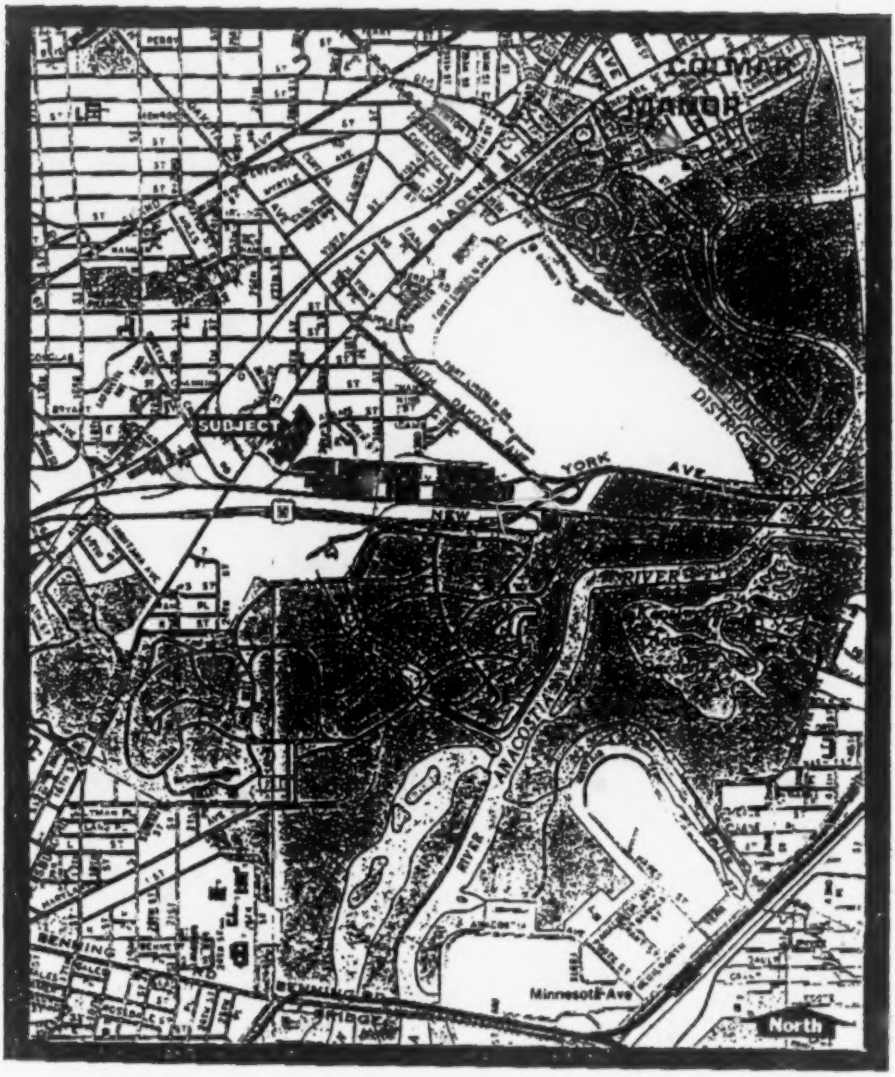
262,066 sf of warehouse and related office space
19,032 sf of truck court

2800 V. Street, N.E.
Stanley Martin Commercial

R. A. Fortè Architects

SMC

Stanley Martin Commercial, Inc.



220 WISCONSIN AVENUE • SUITE 210 • BETHESDA MARYLAND 20814 • (301) 6[illegible] • FAX: 6546552

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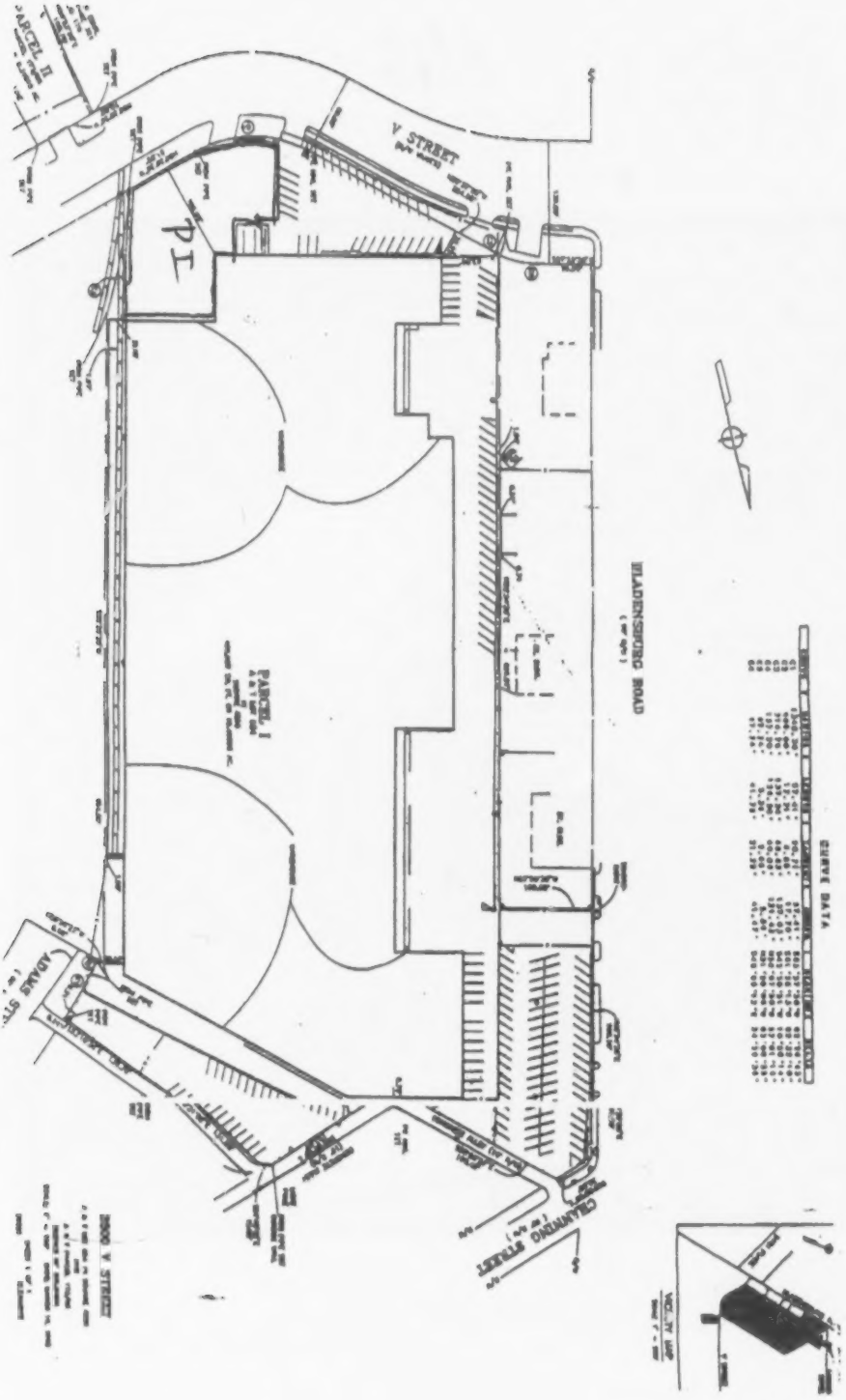
V STREET
PARCEL I
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IDAHO ST.
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